

# Integration from Above: Why fly the EU's open skies

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Ukrainian politicians and specialists in European integration continually talk about the need for a visa-free regime between the European Union and Ukraine. The benefits of this are undoubtedly many. Mobility and interpersonal contacts, access to information and new worldviews will foster closer relations between Ukraine and the EU no less than fruitful bilateral negotiations. Still, one important question remains unanswered.

To spend spring break in Paris from April 1-7 this year, an ordinary Ukrainian will have to pay at least EUR 252 for a return flight from Kyiv to Paris. For those same dates, a Dublin-Prague-Dublin flight, which is about 300 km longer each way, costs only EUR 50.<sup>1</sup>

In short, flying remains largely inaccessible to the average Ukrainian because of the cost. Three Ukrainian airlines, AeroSvit, Ukraine International Airlines and Dniproavia, control 70% of the domestic air passenger market and they are anything but cheap. Instituting a visa-free regime between the EU and Ukraine is thus unlikely to lead to a sudden influx of Ukrainian tourists in European capitals. Ukrainians will have to either pay for cash-consuming airline tickets or settle for time-consuming trains and buses. At least if they want to get to the nearest European capital. Once there, of course, they will be able to fly anywhere else in Europe on a low-cost carrier.

## Onward and upward

2005 proved to be a watershed in the evolution of aviation in Ukraine. Although the US Federal Avia-

tion Administration (FAA) gave Ukraine's airlines low marks for flight safety, the EU and Ukraine signed a "horizontal agreement" on specific aspects of air links, which allows European airlines to fly to Ukraine from any country of the European Union. In December 2007, the first round of talks began between Ukraine and the EU on a Common Aviation Area (ECAA).

The European Common Aviation Area is a bilateral agreement between the European Union and third countries intended to establish safety standards and liberalize market relations in aviation. Essentially, the ECAA is a kind of free trade area for the airline industry. At the moment, this program covers all the Western Balkans, Iceland and Norway. Altogether, 36 countries participate in it today and the EU plans to involve all its neighbors eventually. At this point, ECAA members serve a population of more than 500 million.

The Agreement on the ECAA is based on the principle that third party countries will adhere to all EU rules on civil aviation, including those on flight safety, passenger safety, the liability of air carriers for transporting, environmental protection, competition, and state aid. For Ukraine, this represents a concrete, targeted direction for integrating into EU markets according to EU standards. Thus, the Agreement requires, among others, that European safety and quality control standards for all airplane equipment, unlimited liability on the part of carriers for transporting, carbon emission quotas on airplanes, upholding environmental standards in the manufacture of aviation technology and restrictions on state aid for carriers in a freely competitive market.

<sup>1</sup> <http://www.travelstart.de/>

At the 2006 Summit of the International Civil Aviation Organization (ICAO), the European Commission designated Ukraine as a country that could be fast-tracked to join the ECAA. Its expectations have been justified: four rounds of negotiations have already taken place and in March 2010, the fifth round starts in Kyiv. According to preliminary estimates, if the pace of the talks keeps up, they should be concluded in 2011.

Notably, the European Union came forward with the initiative for Ukraine to join the ECAA. What made the European aviation industry sit up and notice Ukraine? Firstly, passenger flows. From 2002 to 2008, the number of flights to and from Ukraine grew an average of 14% annually, while in 2005 alone, it grew 20%.

## One space, two directions

The Agreement on the Single European Airspace has two main thematic sections:

1. *Harmonizing national legislation to EU legislation regarding flight safety and flight control management.*

In other words, the agreement requires Ukraine to adopt European standards of air carrier safety. One thing should be noted up front: "flight safety" does not just refer to the technical specifications of an airplane. It is also the level of preparedness among airline staff and traffic controllers, the qualifications of airline inspectors, and even how closely an airline sticks to its flight schedule. For instance, an airline has to pay passengers compensation for delays, postponements or cancellations of flights, violations that Ukrainian airlines are used to making without punishment.

### Safety ≠ Comfort

It's best not to confuse European safety standards with European standards of comfort. In other words, if Ukraine joins the ECAA, it does not mean that Ukrainian carriers will offer passengers new planes equipped with wide, plush seats with individual video screens, that their flight attendants will smile at all times, or that flights will never be delayed. More likely, the cost of a ticket will depend on the quality standard and passengers will be compensated for delays.

In Europe, there is a very clear distinction of classes in air travel, starting with the airlines that offer VIP flights, such as France's Blue Line, to the budget airlines, where even using the on-board toilets can be charged and baggage is restricted to 10-15 kg, such as on Ireland's Ryanair. More than likely, these kinds of distinctions will appear in Ukraine, offering consumers a wide choice, from "limos" to "minibuses."

This is not Ukraine's first attempt at meeting international safety standards. In 1992, the country joined the International Civil Aviation Organization or ICAO, whose main activity is enforcing the Chicago Convention, an international legal document that

has regulated air traffic since 1944. In 2004, Ukraine joined the European Organization for the Safety of Air Navigation or EUROCONTROL. It is now preparing to sign "Working arrangements" with the European Aviation Safety Organization, EASA.

Table 1. Ukraine's participation in international aviation organizations and agencies

	Year joined	# of full-fledged members	Type of member	Function of the organization/agency
International Civil Aviation Organization (ICAO)	1992	190	Full	Establishes basic standards in all areas of flight safety for international flights. These are reflected in the national legislation of member countries.
European Civil Aviation Convention (ECAC)	1999	44	Full	Provides a forum for discussing the most important issues and problems in aviation.
European Organization for the Safety of Air Navigation (EUROCONTROL)	2004	38	Full	Brings together countries on the European Continent, which have established unified standards of service for air traffic and monitor the upholding of these standards.
European Aviation Safety Agency (EASA)	n/a (for EU Member States only)	27	Cooperation according to "Working Agreements"	Establishes, institutes and oversees enforcement of aviation safety; certifies for equipment and manufacturers.

The SAFA program or Safety Assessment of Foreign Aircraft has been in effect in EU airports since 2006. Under this program, airplanes from any country in the world can be subjected to a review. Should a plane not meet safety standards, it loses flying rights to EU countries and is placed on a blacklist put together by the European Commission. Among Ukrainian airlines, the blacklist included Volare Airlines, Ukrainian Aviation Transport Company (UATC), Motor Sich, and Ukrainian Mediterranean Airlines (UNAir), which was one of the top three airlines in Ukraine in 2005. Today, Volare Airlines, UATC and Motor Sich have been removed from the blacklist. UMAir remains included. It can be removed if it takes the exhaustive measures in order to align its safety standards with EASA requirements, as confirmed

by the Air Safety Committee. Needless to say, such experience is detrimental to the reputation of both Ukrainian air carriers and Ukraine as a whole.

2. *Providing mutual access to aviation industry markets: air carrier market, manufacturing and servicing aviation equipment, training aviation professionals, and so on, on equal terms for all members of the ECAA.*

Merging aviation markets is convenient for Ukraine's aviation sector firstly because now Ukrainian-made, from aircraft to aircraft parts, will be certified and can be sold on EU markets. The European Commission has passed two Regulations that govern the certification of aviation equipment for use.

Table 2. EASA certification requirements <sup>2</sup>

Regulation (EC) №1702/2003	Regulation (EC) № 2042/2003
<ul style="list-style-type: none"> <li>Rules for the flight-worthiness and environmental certification of aircraft and related products, parts and appliances</li> <li>and for certifying organizations that design and produce aviation equipment</li> </ul>	<ul style="list-style-type: none"> <li>Rules for the continuing flight-worthiness of aircraft and aeronautical products, parts, and appliances</li> <li>and for approving organizations and personnel involved in these tasks.</li> </ul>

<sup>2</sup> [http://www.easa.europa.eu/ws\\_prod/g/rg\\_regulations.php](http://www.easa.europa.eu/ws_prod/g/rg_regulations.php)

A common aircraft carrier market is not only a huge opportunity for Ukraine, but a huge challenge as well. In 2009, the share of foreign airlines in air traffic in Ukraine was up to 79.5%, the remaining 20.5% alone belonging to domestic airlines.<sup>3</sup> Once the country joins the ECAA, the share of domestic air-

lines is likely to shrink even further. What's more, the rising number of charter flights and low-cost carriers on Ukraine's aviation market and the technical inability of domestic airports to function as transit hubs could have a serious impact on the success of Ukraine's aviation sector.

### The experience of those who went before...

Countries that have already joined the ECAA provide a good example of the dynamics of change in their aviation sectors. In neighboring Poland, passenger flow more than doubled by 2007. Moreover, foreign budget carriers like WizzAir, SkyEurope and Ryanair quickly grabbed the larger share of the market in four of the country's five largest national airports.

Of course, some of the domestic airlines in countries like Poland and Croatia manage to stay in the air more easily because they belong to global strategic alliances. Thanks to being part of associations like Star Alliance, Oneworld and Sky Team, carriers operate like a single network, sharing fleets for establish convenient routes and increasing sales volumes.

The Ukrainian Aviation Group, DonbasAero and AeroSvit have taken the same basic principle for their own code-sharing arrangements. Still, agreements at the national level will not make these airlines as competitive as would membership in an international alliance.

## Per aspera ad astra

To feel the impact of the Common Aviation Area, Ukraine needs to fulfill the conditions of membership. For this, the players on Ukraine's aviation market need to undertake a series of transformations, including reaching five key objectives.

### Adopt a new Airspace Code

Adopted in 1993, Ukraine's Airspace Code is essentially the legal base for civil aviation in Ukraine. It contains all the key provisions establishing which government bodies (CEBs) have powers in civil aviation, what the responsibilities of players in this sphere, and what the standards of air safety are. But not only there, unfortunately. Certain provisions are also found in Ukraine's Civil Code, the Commercial Code and the Montreal Convention,<sup>4</sup> which has resulted in a scattered regulatory environment. This kind of situation allows just about any Ukrainian airline to have its own internal rules for carrying passengers, baggage and cargo.<sup>5</sup>

The current Airspace Code is outdated as its provisions are grounded in soviet aviation standards. Several attempts at updating the Code have failed to pass in the Verkhovna Rada. At this time, a TWINNING project on harmonizing civil aviation legislation and standards in Ukraine with EU standards and legislation has been drafting a new Airspace Code. Among others, it is supposed to be adapted to the counterpart EU legislation and contain provisions:

- 1) authorizing the State Aviation Administration (SAA) to oversee the sector;
- 2) establishing penalties or criminal liability for both physical and legal persons;
- 3) providing the SAA with the necessary leverage to enforce legislation;
- 4) providing SAA inspectors with unrestricted access to all users and organizations in the civil aviation branch;
- 5) also providing unrestricted access to outside inspectors;
- 6) allowing inspections without notice;
- 7) setting up an independent body to investigate aviation incidents;

<sup>3</sup> <http://uksatse.ua/index.php?s=6c9ba5ad78ed62fd0b86d0cc399d34cf&act=Part&CODE=229>

<sup>4</sup> Came into force in Ukraine on 6 May 2009.

<sup>5</sup> Airline liabilities," Legal Weekly №25 (151), 23 June 2009.

- 8) adding a list of terms in the Ukrainian language in compliance with international and European terminology.<sup>6</sup>

Some of the listed issues are regulated by Cabinet resolutions, while others are completely missing in Ukrainian law. This is not only against EU requirements, but also against the Chicago Convention, which, among others, requires complete independence for the CEB exercising a supervisory role in ensuring flight safety.

The last draft Airspace Code was rejected by the Verkhovna Rada in 2009 because deputies disagreed with the principles of state regulation that it contained. At the moment, a revised draft is being prepared that the State Aviation Administration hopes to see passed in 2010.

### *Agree to transition periods*

During the fifth round of negotiations, Ukraine is supposed to agree two more points in the CAA Agreement: a list of national legislation that needs to be harmonized with EU laws and the timeframes for transition periods for Ukraine. The latter are extremely important as it is during this time that Ukrainian airlines will have to renew their fleets, that Terminal F must be completed at Boryspil International Airport, and the infrastructure at major airports in Simferopol, Odesa, L'viv, Dnipropetrovsk, Donetsk and Kharkiv improved significantly.

In the worst-case scenario, if Ukraine proves unable to do all this within the designated period, domestic airlines are likely to fail in the face of fierce competition. At the same time, Ukraine's reputation as a reliable partner will be further undermined.

### *Invest more in airports*

Ukraine's airports are lagging in their expansions compared to airlines and are already unable to satisfy demand properly. Two factors lie behind this. One is that return on investment (ROI) globally is about half as long for an airline as it is for an airport. The other is that Ukraine's privately-owned airlines have much better access to investment capital than

the state, which owns most of the country's airports. On top of that, reconstructing an airport takes enormous amounts of financing. For instance, in order to bring Ukraine's airports up to European standards for Euro-2012, EUR 1.2 billion are needed. The government is hoping that 75% of this will come from the private sector.

### *Undertake a complete renewal*

It's not just legislation that Ukraine needs to update. Its airlines found themselves on the EU blacklist for good reasons: the aircraft of even the country's top carriers are physically and technically outdated. This is equally true of the airports. Of the 46 airports and aerodromes in Ukraine, most are equipped with technology and equipment that is too old to provide proper navigational services.<sup>7</sup>

Concrete steps have already been taken to deal with this problem. On 13 January 2010, Ukraine's Cabinet of Ministers approved the "Program for developing the state system for utilizing airspace in Ukraine over 2010-2014." The program's funding is expected to come out 70% of profits at UkrAeroRukh, the state enterprise that handles air traffic, and 30% from investors. Thus, it not only will not dip into the State Budget, but actually has a long-term objective of increasing contributions to it.

Still, this program is aimed only at updating the mechanisms for serving air traffic, that is, at optimizing traffic control services. The question of what the technical capacity at airports is to serve a larger flow of passengers and more flights remains open, as does the question of the state of the aircraft themselves. Nor can private airlines count on the state, as ECAA conditions strictly prohibit state subsidies, except in emergency situations.

### *Raise salaries*

According to the Chicago Convention, the salaries of aviation professionals are supposed to be at least at the level of average salaries in the entire aviation sector. This condition is currently not being met in Ukraine for understandable reasons. For one thing, the sector includes both private- and public-sector

<sup>6</sup> State Aviation Administration, Action Plan dated 15 May 2009, Twinning Project UA/06/PCA/TP/01.

<sup>7</sup> "A threat to humans in the air and on the ground," Legal Weekly №25 (151), 23 June 2009.

entities, and salary scales differ between them. Pay rates in public entities, including the SAA, UkrAero-Rezurs and airports, are set by the Single Civil Service Salary Scale, while in private companies they depend largely on profitability. According to Derzhkomstat data, the average monthly salary of a worker in the air transport branch is UAH 5,106, equivalent to around US \$640 and the highest level in the public sector. Yet this cannot possibly compare with salaries at private airlines, where a pilot can earn several thousand US dollars a month.

This issue is critical not only in terms of fairness and not even because of the lack of young specialists in the public sector. This state of affairs violates the very principle underlying European inspection norms. After all, if the material standing of a civil servant who is supposed to assess the quality of aviation services is far lower than that of those whom the official is inspecting, it creates an obvious opening to influence that official's evaluation. And this could easily have negative, even tragic consequences.<sup>8</sup>

## The meaning of ECAA: A win-lose situation?

At this point, there are no winners or losers, as there is still plenty of diligent work ahead for Ukraine. The main thing is for the path to the Common Aviation Area to be one-way forward for Ukraine's aviation. Whether the outcome is positive or negative, and even whether there will be one or not, will be possible to see after the Agreement is ratified by the Verkhovna Rada. After all, joining the World Trade Organization (WTO) has so far not resulted in significant changes for Ukraine, although the country's government does not always adhere to its requirements.

In Ukraine, this particular Agreement is primarily beneficial for those who fly. According to the Agreement, passengers will be guaranteed not only greater flight safety, with appropriate fines if quality does not meet standards, but also a much wider selection of carriers, packaged services, affordable prices, and convenient flight schedules.

Looking truth in the eyes, we have to admit: for Ukrainian airlines and airports, joining the ECAA will be a test of their sustainability. Right now, the two largest airlines, UIA and AeroSvit are both in an uncertain state as to ownership and, therefore, potential investment. Moreover, simple arithmetic shows that the battle will be hard and lopsided. The number of planes in the UIA and Ukrainian Aviation Group fleets, the second of which includes AeroSvit and DonbasAero, is one fifth the number in the British Airways fleet.

The same can be said of the competitiveness of Ukraine's airports. According to EUROCONTROL classifications, there are six groups of airports, based on the number of take-offs per year. Based on this criterion, Boryspil belongs in the third group (20-50,000), three regional airports belong to the fourth group (5-20,000), seven to the fifth group (1-5,000) and the rest to the group of airports that serve fewer than 1,000 take-offs a year. By contrast, in Germany, two airports belong to the group of largest airports, with 200-500,000 take-offs a year and five to the group of major airports, with 50-200,000 take-offs. This makes the prospects for turning Boryspil Airport into an international hub in short order, especially when faced with serious competition with powerful European hubs and the current credit crunch, fairly grim.

Moreover, it seems that Boryspil's own management is not encouraging the airport's expansion. Terminal F, which is currently under construction, was originally designated to serve budget carriers at reduced rates. Not long ago, however, airport management changed its mind and said rates were going to be standard after all.

This means that low cost European carriers will have to use regional airports instead. The fact that some of them are dozens of kilometers from their regional centers should not actually get in the way of these budget airlines. For European carriers, using smaller airports that are as much as 100 kilometers away from the nearest major population center is common practice.

<sup>8</sup> Interview with Yuriy Kordianin, Director of External Relations Department, State Aviation Administration.



Incidentally, this proved very beneficial for Poland. In 2004, when the country joined the European Union, the Krakow-Katowice Airport carried some 500,000 passengers a year, 80% of its flights were scheduled and 20% were chartered. By 2008, the airport had expanded passenger flows to 2.4 million as

a result of two changes. Firstly, two new terminals were opened and, secondly, the number of low-cost charter flights skyrocketed. The share of regular flights was now only 20%, while the share of low-cost flights was now 80%.

Table 3. Impact of joining the ECAA on Ukraine

	Pros	Cons
Passengers	European flight safety standards European ground and in-flight services More flights and more destinations A broader range of price options	None
Airlines	Potentially unrestricted landing rights in all EU member countries	Greater pricing competition on market Higher costs to maintain safety standards Potentially lower profits as prices become more competitive Lower profits if forced to pay compensation Disputes between domestic and European carriers during transition periods Threat of losing to the competition
Airports	Incentive to upgrade old and build new terminals  A growing role for Ukraine as a transit point between East and West  A "second wind" for regional airports and aerodromes that are convenient for budget and charter flights	Unlikelihood that Boryspil Airport can be turned into an international hub in short order Delayed flights because of limited capacities  Longer waits at immigration points  Reduced security of baggage carriage
Aeronavigation services provider	Greater profits from fees for using Ukraine's airspace	Overload as the number of take-offs increases dramatically
Aviation building industry	Entry to new markets for products as they become EU-certified Increasing product quality to sharpen its competitive edge	Growing prices for products as manufacturing standards are raised

## Stress as a way out of a crisis

Ukraine's successes on the international arena for some reason are far less remembered among ordinary Ukrainians than its failures. This was the case with the country's accession to the WTO and with the start of talks on joining the European Common Aviation Area. The Agreement on a Common Aviation Area with the EU will not be the first agreement Ukraine has signed with the EU, but the first one that ordinary Ukrainians will benefit from almost immediately. For Ukrainian travelers, the ECAA represents a potential revolution in service and affordability.

Of course, the need for entry visas will complicate the travel of Ukrainian citizens to the European Union. Still, the issue of a Common Aviation Area cannot be tied to the issue of visa-free travel. After all, the Western Balkans also joined the ECAA two years before they were granted visa-free status—which still only extends to bearers of biometric passports.

Joining the ECAA needs a very decisive step on the part of Ukraine's Government, as Ukrainian airlines will most likely be unable to adjust to the new com-

petitive environment in the short run. Left on their own with European rivals, they could lose much of their income. This cannot be said about Ukraine's airports, which will equally get fees from international and domestic carriers. For the Ukrainian Government, just signing this agreement will be a major achievement, mainly because it will finally have shown that it can fulfill promises and tackle reforms.

Ultimately, competition is a force for progress, not destruction. Any change is a risk. Overcoming and adapting to these changes will mean reaching a new level of development. Most likely, the new conditions will push Ukraine's airlines and airports to

look for investment and quality upgrades. Moreover, these new conditions will encourage a restructuring of the market of aviation services in Ukraine: whether they can find a place under the ECAA sun or have to give their place to others will depend entirely on the Ukrainian companies themselves.

Joining the ECAA will also signal that democratic principle rules in Ukraine, as it puts the interests of consumers higher than the interests of business. Ukraine's standard mantra about protecting domestic manufacturers—which really means giving the advantage to the minority at the expense of the majority—should not get in the way of joining Europe's open skies.

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